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ARIZONA CORPORATION COMMISSION

July 23, 2018

Arizona Corporation Commission

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Docket Control
Arizona Corporation Commission
1200 W Washington St.
Phoenix, AZ 85007

RE: WS-02987A-18-0050; Johnson Utilities' Request for Recusal

My Fellow Commissioners,

On July 6, Chairman Tom Forese cancelled the Emergency Staff Meeting in this matter for lack of quorum, and I was then contacted by Representative T.J. Shope to find out what was going on. My staff and I met with Representative Shope, his staff, Pinal County Supervisor Mike Goodman, and ADEQ Water Quality Director Trevor Baggione at the Arizona House of Representatives to provide an update on the multiple dockets currently open. The following notes summarize the meeting:

- Shope stated that he had received numerous calls from residents and that the Commission had not provided a timeframe that Shope could communicate regarding when the issues to be fixed.
- I advised that there were multiple dockets pending and that ex-parte rules were in effect, and that any information could pertain only to process and matters of fact.
- I provided a procedural history of the dockets and outlined the steps the Commission, as a whole, could take on each docket and the amount of time each of those steps could take.
- Baggione provided a synopsis of the utility's history with ADEQ and a report on the causes for the recent water outages. Baggione also fielded technical questions.
- I fielded questions regarding the historic role of an interim manager and explained the process, as I understood it to be, that Staff uses to procure interim managers.
- No mention was made of how any Commissioner intended to vote on any ROO or decision.

The attendees were all witnesses to the above, and despite what Johnson Utilities may interpret in the wording of a press release, there were no unauthorized communications at the above meeting. Johnson Utilities' motion is hollow, and I stand by the objections of Pinal County.¹

¹ See Pinal County's Response and Objections, available at <http://docket.images.azcc.gov/0000190454.pdf>.

Johnson Utilities' concern is that I decided this case long ago, and the Company is looking for any long-shot tactic it can find to further delay the Commission's discussion and vote on the evidence.

I first recommended a hearing on an interim manager for Johnson Utilities over a year ago, when I first noticed a track record of conduct I knew would be a burden to this Commission and a plague to the customers of its territory.²

In 2017, when the Company wanted relief for a filing deadline, but was unwilling to give its customers relief on a CAGR increase, I said I thought that was inappropriate.³

In 2017, when the Company convinced the Commission that it had capital projects in the pipeline, but delayed again and again on the specific details of what those were, I said Johnson Utilities had lost all credibility,⁴ and I urged that Johnson Utilities should be required to expose its true books and records to the Commission in a full rate case.⁵

In 2017, when Johnson Utilities stated, "The Company has consistently opposed this requirement of a rate case filing deadline,"⁶ I told the Commission, "I have no faith that the Company can't perform on our schedule."⁷ And on May 3, 2018, after having already proposed that the Commission's Order to Show Cause should require the Company to prove why an interim manager should not remain in effect,⁸ I docketed a letter outlining a long list of everything else the Company has consistently opposed.⁹

I have been aggressively attending almost every hearing and proceeding, closely watching the closed-circuit broadcasts, attending the public comments, and actively giving the Company every opportunity to address my concerns.

I have reversed the policy on recovery of personal income taxes on pass-through entities, advocated for deadlines the Company consistently opposed, urged the Chairman to discuss CC&N expungement, and rejected the Company's lackluster joint settlement agreement.

² See Letter from Commissioner Tobin (June 2, 2017), <http://images.edocket.azcc.gov/docketpdf/0000180080.pdf>.

³ See Archived Video of August Open Meeting (Aug. 16, 2017), 1:04:28 to 1:05:35 ("The customer wanted relief, just like what you're asking for today; a little relief, and you didn't give them any."), 1:06:04 to 1:06:35 ("You're missing my point Mr. Crocket"), http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=2823.

⁴ See Archived Video of August Open Meeting (Aug. 16, 2017), 52:08 to 52:56 ("The history of Johnson has consistently been late and delay;"), 1:09:27 to 1:09:36 ("Their credibility is gone."), http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=2823.

⁵ See Letter from Commissioner Tobin (Aug. 9, 2017), <http://docket.images.azcc.gov/0000181940.pdf>.

⁶ See Archived Video of August Open Meeting (Aug. 16, 2017), 54:57 to 55:24, http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=2823.

⁷ See Archived Video of August Open Meeting (Aug. 16, 2017), 1:09:27 to 1:09:36, http://azcc.granicus.com/MediaPlayer.php?view_id=3&clip_id=2823.

⁸ See Commissioner Tobin's Proposed Amendment (Mar. 12, 2018), <http://images.edocket.azcc.gov/docketpdf/0000186501.pdf>.

⁹ See Letter from Commissioner Tobin (May 3, 2018), <http://docket.images.azcc.gov/0000188162.pdf>; See also Press Release regarding the Letter, <http://www.azcc.gov/Divisions/Administration/news/2018Releases/5-3-18seeksfinancialdataofregulated.asp>.

What is most concerning to me is that the Company has been consistently given recourse in the name of due process, and yet, in the face of even unfounded legal threats such as this recent filing, the Commission's history has consistently taken sides on due process for the Company over due process for the customer.

I have consistently advocated for the due process of the customer, and I believe the Company's conduct throughout these proceedings only emphasizes Johnson Utilities' perennial disservice to its customers and obstructionism. If this July 24th meeting has any potential to amount to an end-all, be-all decision that finally acknowledges due process for the customers, then I refuse to be the reason the Commission denies them their long-awaited decision.

Accordingly, I will not to be complicit in the plight of Johnson Utility's customers by allowing the Company or this Commission to further delay this matter over a petty legal tactic, and therefore I will not be participating at this July 24 meeting.



Andy Tobin
Commissioner

Please contact my office for access to MP4 files of the cited videos.



Clip - Full Discussion



Crocket Clip - The Company has Consistently Opposed Rate Filing Requirement



Tobin Clip - Consistently Late & Delay



Tobin Clip - If I had Known Last Fall



Tobin Clip - No Faith in the Company



Tobin Clip - What About Due Process for the Customer



Tobin clip - You're Missing My Point

On this 23rd day of July, 2018, the foregoing document was filed with Docket Control as a Correspondence From Commissioner, and copies of the foregoing were mailed on behalf of Andy Tobin, Commissioner - A.C.C. to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

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